

PR#9833

STRONG, J.D.

4/9/2009

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.,
Plaintiff,

vs. CASE NO. 05-CV-00329-GKF SAJ

TYSON FOODS, INC., et al.,
Defendants.

VIDEOTAPED DEPOSITION OF J.D. STRONG
TAKEN ON BEHALF OF THE DEFENDANTS
ON APRIL 9, 2009, BEGINNING AT 8:40 A.M.
IN OKLAHOMA CITY, OKLAHOMA

APPEARANCES:

On behalf of the PLAINTIFF:

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REPORTED BY: Laura L. Robertson, CSR, RPR

EXHIBIT

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1 pollution, but the phosphorus that comes out of a bag
2 from Home Depot that runs off into the stream is not
3 pollution. Is that what you're telling me?

4 MR. LENNINGTON: Object to the form.

5 THE WITNESS: As far as the state law is
6 concerned, that's true.

7 Q. (BY MR. TUCKER) Okay. Now, you have told me
8 that a farmer can get a nutrient management plan and
9 he can comply with that nutrient management plan and
10 still be violating the law because there can be site
11 specific runoff from his application of poultry
12 litter; is that right? Is that what you told us? Did
13 I get that right?

14 A. Yes, I believe so, yes.

15 Q. Now, what part of the nutrient management
16 plan tells the farmer, makes that disclosure to the
17 farmer, does any part of the plan tell him that?

18 A. I'm not familiar with every verse and word
19 of the nutrient management plan, so I'm not sure if
20 that is included in the nutrient management plan or
21 not.

22 Q. Have you ever even looked at one?

23 A. I have glanced.

24 Q. Have you ever read one?

25 A. Not thoroughly.

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1 right?

2 A. I don't know whether or not the farmers know
3 it.

4 Q. Can do it, can comply?

5 A. It is possible to violate the laws of the
6 state while complying with a nutrient management plan.

7 Q. And that's because some phosphorus can run
8 off?

9 A. Correct.

10 Q. How much?

11 A. I think --

12 Q. How much phosphorus?

13 A. It is a very site specific number.

14 Q. An 80 acre tract of land that has litter
15 applied to it, nutrient management plan says you can
16 put on three acres a year -- three tons per acre per
17 year. How much phosphorus runs off that land?

18 MR. LENNINGTON: Object to the form.

19 THE WITNESS: I don't know. That's just a
20 general --

21 MR. TUCKER: How much phosphorus would have
22 to run off that land to cross your threshold that
23 would make it pollution?

24 A. The law says zero runoff.

25 Q. Does phosphorus run off just plain dirt,

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1 A. They both get their root in a law, yes.

2 Q. Regardless of whether one is federal and one
3 state?

4 A. One is state.

5 Q. But they are both created, the requirement
6 is created by a law; correct?

7 A. Correct.

8 Q. Okay. And they both allow discharge into
9 the environment within the state of Oklahoma of
10 phosphorus; correct?

11 MR. LENNINGTON: Object to the form.

12 THE WITNESS: The point source permit does,
13 yes.

14 Q. (BY MS. LONGWELL) Okay. And when an animal
15 waste management plan says you can land apply a
16 certain amount of poultry litter to the land, to a
17 specific land, is that not a permission to apply a
18 certain amount of phosphorus into the environment
19 within the state of Oklahoma?

20 A. I think that requires some sort of legal
21 interpretation, but I don't necessarily believe that
22 it does.

23 Q. Do you agree with me that poultry litter
24 contains phosphorus?

25 A. Yes.